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COMMISSION ON HUMAN RIGHTS
Forty-eighth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[12 February 1992]

1. One hundred and sixteen national Parliaments are currently represented within the Inter-Parliamentary Union which also has two associate members.

2. In October 1991, the 86th Inter-Parliamentary Conference adopted unanimously 1/ a resolution entitled "Development of Measures to Prevent and Intervene Against Genocide through International Cooperation within the Framework of Competent International Bodies such as the United Nations". This resolution addresses those violations of human rights and fundamental freedoms which either already constitute genocide or which may develop into genocide unless preventive action is taken. The members of the Commission on Human Rights will find below, for their information, the text of this resolution.

1/ The following national Parliaments were represented at this Conference: Algeria, Angola, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Germany, Guatemala, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malawi, Malaysia, Malta, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, San Marino, Senegal, Singapore, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, USSR, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

DEVELOPMENT OF MEASURES TO PREVENT AND INTERVENE AGAINST GENOCIDE THROUGH INTERNATIONAL COOPERATION WITHIN THE FRAMEWORK OF COMPETENT INTERNATIONAL BODIES SUCH AS THE UNITED NATIONS

The 86th Inter-Parliamentary Conference,

Recalling that under the Charter of the United Nations, Member States have pledged themselves to take joint or separate action, in cooperation with the United Nations, for the achievement and promotion of universal respect for and observance of human rights and fundamental freedoms,

Reaffirming the principle laid down in the Universal Declaration of Human Rights, that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recalling United Nations General Assembly resolution 260 (III) adopted on 9 December 1948, which approved the Convention on the Prevention and Punishment of the Crime of Genocide and urged all countries to accede to the Convention,

Reaffirming that international humanitarian law obligates belligerents to offer protection to captured and sick combatants and civilians, who are entitled to respect for their life and their moral and physical integrity as provided for in the four Geneva Conventions of 1949 and their two Additional Protocols,

Noting with satisfaction that the Genocide Convention of 1948 as well as the four Geneva Conventions of 1949 have gained virtually universal acceptance,

Recognizing that genocide constitutes a crime against humanity under international law and a grave threat to international peace and security, and that persons committing genocide must be punished, whether they are constitutionally responsible rulers, public officials or private individuals, and noting the conclusions and recommendations of studies on the question of the prevention and punishment of the crime of genocide, conducted under the auspices of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, calling for the urgent adoption of additional and more substantive measures against perpetrators of genocide,

Mindful that, despite all undertakings, the twentieth century is replete with instances of genocide committed by States, constitutionally responsible rulers and public officials,

Gravely concerned that existing tensions and conflicts involving national, ethnic, racial, religious or cultural groups may constitute or give rise to the crime of genocide,

Recalling that the annexation of territories, forced displacement of populations, racial discrimination and apartheid may lead to genocide,

Concerned that existing measures are under-utilized by the competent international organizations and are inadequate to effectively prevent or intervene against genocide,

Conscious that the absence of adequate enforcement mechanisms constitutes a failure by the international community to implement the principles and standards laid down in the Charter of the United Nations and in international human rights instruments,

Noting that, as a consequence, the crime of genocide has been punished only very rarely since the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide,

Convinced that Parliaments can play an important role in the consolidation and expansion of measures to prevent genocide and of cooperation to free the world from this scourge,

Emphasizing the duty of the United Nations Security Council to take collective action with respect to acts of genocide and aggression, which constitute crimes against humanity and breaches of the peace, in order to prevent resort to unilateral intervention and violation of the political independence and territorial integrity of States,

Reiterating the importance of preventive measures, such as the establishment and support of impartial and authoritative human rights bodies, which can call the attention of the international community to situations likely to lead to genocidal actions,

Pointing out that the crime of genocide cannot be prevented without extensive international cooperation between bodies and organizations working in the field of human rights,

1. Vigorously condemns the crime of genocide, and recalls that it constitutes a crime under international law, whether committed in time of peace or of war;

2. Emphasizes that the elimination of the crime of genocide requires all countries to adopt open political systems based on respect for human rights and fundamental freedoms;

3. Urges States that have not yet done so to accede to or ratify the Convention;

4. Expresses its conviction that, in order to eliminate genocide, it is essential that all countries implement the Convention on the Prevention and Punishment of the Crime of Genocide;

5. Calls on the United Nations to take all appropriate measures, in particular the establishment of an international early warning system, to prevent genocide and intervene in any situation likely to lead to genocide;

6. Emphasizes that the principle of non-interference in matters which are essentially within the jurisdiction of States must not prevent the United Nations from taking measures to ensure respect for fundamental human rights principles and the prevention and punishment of the crime of genocide;

7. Recommends that, to prevent any violation of the territorial integrity and political independence of States and to avoid the need to resort to unilateral humanitarian intervention by armed force because of the absence of other effective measures, the Security Council give serious consideration to the possibility of using United Nations peace-keeping forces, in conformity with the Charter, to prevent or intervene against massive and flagrant violations of human rights and fundamental freedoms, in particular the annexation of territories and forced displacements of populations, which are likely to lead to, or which constitute genocide and which threaten international peace and security;

8. Calls on the United Nations Commission on Human Rights to appoint a Special Rapporteur on genocide to report annually - in his/her capacity as an independent expert - on progress made in the prevention and punishment of the crime of genocide;

9. Urges that the Convention on the Prevention and Punishment of the Crime of Genocide be amended to include cultural genocide, namely, all measures aimed at the extermination of the languages or dialects and cultures of any minority or people;

10. Also urges Member States parties to the Convention on the Prevention and Punishment of the Crime of Genocide to set up the international penal tribunal contemplated in Article VI in order to try and punish perpetrators of acts of genocide; such a tribunal should have compulsory jurisdiction over all offences
if domestic remedies are exhausted or substantially ineffective;

11. Further urges Member States parties to the Convention on the Prevention and Punishment of the Crime of Genocide to request, in the spirit of Article VIII, the establishment of a committee on genocide whose function would be to receive petitions and to carry out investigations in connection with allegations of genocide, to seize the international tribunal and to take urgent steps to end genocide wherever it might be committed;

12. Calls for effective measures to be taken to protect the rights of minorities in all States in keeping with the spirit of the work of the Commission on Human Rights on the Declaration of the Rights of Persons belonging to National, Ethnic, Religious or Linguistic Minorities;

13. Also calls for the coordination of efforts to establish or re-establish the legitimate rights of all oppressed peoples of the world and for an end to all repressive practices to which they are subjected;

14. Reiterates that all sovereign States, pursuant to their Constitutions, should enact the necessary legislation for the implementation of the provisions
of the Convention on the Prevention and Punishment of the Crime of Genocide;

15. Stresses the need for the prompt completion of the draft international code of offences against the peace and security of mankind;

16. Calls on all Inter-Parliamentary Groups to bring the proposed measures to the attention of their respective Governments and to exchange information and experience concerning measures taken to facilitate international cooperation in that sphere;

17. Requests the Secretary-General of the Inter-Parliamentary Union to transmit this resolution to the Secretary-General of the United Nations and to discuss with him the possibility of organizing international cooperation within the framework of the United Nations and other competent international bodies to develop these and other measures to prevent and intervene against the crime of genocide;

18. Also requests the Secretary-General of the Inter-Parliamentary Union to report to the Inter-Parliamentary Council on his consultations with the Secretary-General of the United Nations at the next Inter-Parliamentary Conference.

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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 February 1992]

1. Recent years have witnessed fundamental changes occurring in a growing number of countries which affect the constitutional role and structure of their Parliaments. For example, during a 12-month period ending in the middle of last year, 18 countries (of which 14 are in Africa) instituted changes in their constitutions and basic laws which had the effect of abolishing one-party systems and introducing multipartyism. In many of these same countries, and indeed elsewhere, efforts were under way to enhance the role of national Parliaments as the legislative branch of Government.

2. In response to these developments, the Inter-Parliamentary Union recently decided to expand its technical cooperation programme originally established in 1973 for the purpose of assisting Parliaments of new and developing countries. Through this programme, the Union mobilizes international support and funding for the strengthening of representative institutions. The programme benefits from the active support of the United Nations Development Programme (UNDP) and bilateral donors. It offers expert advice on the structure and working methods of legislative assemblies as well as the organization of staff training courses and the provision of technical equipment and other material resources. Most recently, technical experts undertook needs assessment missions on behalf of the IPU to the Parliaments of Mongolia and Viet Nam and other missions are planned for the Baltic States as well as the Parliaments of several other countries.

3. The Technical Cooperation Programme is part of a larger effort launched by the Union as early as 1965 to contribute to a better knowledge of the working of representative institutions.

4. As part of this effort, the Union systematically collects and disseminates information on the constitutional powers, structure and working methods of national Parliaments, on the status of their members, on national electoral systems as well as on national parliamentary elections and their results. The Union maintains an updated collection of constitutions of sovereign States, their electoral laws, standing orders/rules of procedure and other laws relating to Parliaments. Moreover, the Union has a collection of over 6,000 volumes - books, periodicals and articles mainly concerning constitutional and parliamentary law. The Union is currently in the process of developing several databases in which much of this information will be stored.

5. The Union also prepares and publishes comparative studies on Parliaments and electoral systems, periodicals, monographs and reference materials for use by parliamentarians, academics and the public at large. These publications include among others a reference compendium entitled "Parliaments of the World", a world directory of Parliaments, and another of parliamentary human rights bodies, as well as a Chronicle of Parliamentary Elections and Developments published annually since 1967.

6. Finally, the Union is increasingly working in support of the United Nations in the fields of electoral assistance and election monitoring. A comparative study of national electoral systems is under preparation and consideration is also being given to the development of criteria for assessing free and fair elections.

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QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by the International Federation Terre des Hommes, a non-governmental organization in consultative status (Category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[17 February 1992]

Cholera and underdevelopment

1. Latin America has been afflicted with a cholera epidemic since January 1991. The six countries initially affected were Brazil, Chile, Mexico, Peru, Ecuador and Bolivia, of which the latter three were the most seriously stricken. The epidemic is spreading and reached the countries of Central America in July 1991 (first case reported in Guatemala on 24 July). It has now reached Argentina. It is endemic and the chances of eradicating it are daily becoming more remote. The resurgence of cholera, which has been unknown in the Americas for almost a century, constitutes a grave and typical phenomenon. In fact, this resurgence is caused by underdevelopment, which it also engenders and reproduces in a more aggravated form.

2. The International Federation Terre des Hommes wishes to draw the attention of the Commission on Human Rights to the gravity of this resurgence, its present toll of victims, the steady spread of the epidemic, and the inadequate international mobilization to counter this scourge, which is being nourished by the steady deterioration in the living conditions of large human groups. The reported cases and the incidence of mortality run into hundreds, and even thousands, in Peru, which is the most severely stricken country. In Bolivia, 524 persons have been affected since the first case was reported in August 1991; it is significant that 318 of these contracted the disease in the first week of January 1992 and five of the nine provinces have now fallen prey to the disease. In Argentina, 50 cases have been reported and six deaths announced in the northern part of the country, which has been affected in the last few weeks. In Peru, the number of cases is increasing rapidly and the epidemic is spreading steadily, with more than 1,000 persons hospitalized every month. In Lima, the 1,700 suspected cases in December 1991 increased to almost 4,000 in January, with 55 deaths. In the provinces, during the same period, 1,927 persons were admitted to hospital and there were 386 recognized cases of cholera and 4 deaths. Many children are infected after consuming beverages and ice-cream in the streets or on the beach.

3. The conclusions of a mission dispatched by the Assistance Publique des Hôpitaux de Paris to Central America in October 1991 are alarming. In Guatemala, the epidemic has spread to 10 provinces and is advancing inexorably, with a total of about 1,500 cases. In Honduras, no case had been reported by 17 October 1991; 10 days later, four cases were reported and treated successfully. In El Salvador, where the first case appeared in August 1991, there were 304 cases by October, with 12 deaths, and 386 cases by 31 October, with 14 deaths. In Panama, 559 cases were reported in October, of which 119 were admitted to hospital and 14 died. The epidemic has now reached the frontier region. Nicaragua and Costa Rica are the only two countries that seem to have been so far spared by the epidemic. However, all the countries of the region are characterized by conditions conducive to the spread of cholera.

4. The resurgence of cholera, a disease caused by extreme poverty, illustrates the trend towards underdevelopment. This disease, which affects both urban and rural marginalized and disadvantaged population groups, reveals the varying degrees of susceptibility to it, the most undernourished individuals being the most prone to the cholera vibrio. It becomes rampant whenever there is a deterioration in basic conditions of hygiene. In general, even the hospitals and health centres lack the facilities needed to combat the epidemic for more than the first three or four weeks. The disease also highlights economic disparities. For example, the measures taken to stem the epidemic involve stricter control of water use, particularly for the irrigation of market-garden crops. This penalizes the population groups which supply the urban markets and which even conceal their dead in order to maintain their earnings from that activity. Even States are now facing difficulties in exporting foodstuffs which might be contaminated and their economic resources are thereby being diminished by the epidemic.

5. Although the other diseases and symptoms of underdevelopment cannot be disregarded, the advent of cholera can demonstrate the urgent need to remedy the situation. An effective campaign against this disease should be capable

of improving the overall living conditions of the population groups concerned, thereby breaking the vicious circle of engulfment in poverty. An enhancement of basic hygiene infrastructures is essential, including drinking-water supply, waste water treatment, construction of latrines and garbage collection. This does not necessarily involve grandiose and costly projects; it merely requires a coordinated proliferation of diversified small projects geared to local conditions. Although non-governmental organizations can help in this regard, active support from the international community as a whole is indispensable.

6. The set of measures that must be taken to put an end to the cholera epidemic constitutes a major undertaking that transcends the economic and financial resources of the countries concerned. The Declaration on the Right to Development stipulates that States have a duty to cooperate with each other in eliminating obstacles to development. The campaign against cholera offers a unique opportunity to put this cooperation into practice.

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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by the International Federation Terre des Hommes, a non-governmental organization in consultative status (Category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[17 February 1992]

The financial situation of the United Nations

1. The United Nations is currently being entrusted with major tasks in numerous fields of vital importance for the survival, dignity and well-being of billions of men, women and children. However, in spite of this indispensable manifestation of confidence in the present or potential structures and operations of the United Nations, the successful accomplishment of these operations is being seriously threatened by a financial deficit which totalled about 1 billion dollars on 31 October 1991.

2. In the field of human rights, there is consequently a very great risk that the possibility of implementing the recommendations, resolutions and decisions of the Commission on Human Rights might also gradually diminish. The machinery of this Commission, on which countless individuals and communities pin so much hope, might therefore be brought to a standstill for lack of the financial and human resources that are essential for the achievement of real progress. In such an eventuality, the Commission would

unfortunately become nothing more than a talking-shop. If the work of this Commission, or of other United Nations bodies, deeply disturbs some types of governments or economic activities, the senior officials concerned therein might find it to their advantage to use this method to starve the programmes and work that are disturbing them.

3. The International Federation Terre des Hommes wishes to express its increasing concern at this situation and urges all Member Governments to honour the commitments that they solemnly undertook on joining the United Nations. It will not be possible to establish a new world order unless commitments, including those of a financial nature, are fully met.

4. Although there is undoubtedly a need to cut costs, this should under no circumstances be done in a manner detrimental to the structures, operations and interventions that ensure achievement of the purposes of the Charter of the United Nations in regard to the protection of fundamental rights, which has been entrusted to this Commission, or in regard to peace plans, the success of which is the most ardent hope of peoples in many parts of the world.

5. Mr. Javier Perez de Cuellar, the former Secretary-General, drew attention to the empty coffers in his address to the General Assembly of the United Nations on 4 December last. We quote:

> "The irony of the contrast between the high expectations rightfully placed in the United Nations and the financial indigence to which it has been reduced carries a note of deep regret and perplexity ... The financial insolvency of the United Nations has confronted it with a crisis which, I must stress, is at once political and budgetary."

6. He also emphasized that the United Nations was, for all practical purposes, "unable to meet its current cash commitments, let alone to plan ahead". He went on to say that the most perplexing aspect lay in the fact that the proportion of national budgets allocated to the United Nations was minute in comparison with the military expenditures of Member States. He also presented some specific proposals to enable the United Nations to emerge from its quasi-permanent financial crisis and to find new sources of funding.

7. In 1991, only 10 States had paid their contributions on time and 48 other States had been late in meeting their obligations. All the others, including some of the most highly developed economically, had only paid an instalment towards their contribution for 1991, paid off arrears for previous years, or made no payment at all in respect of arrears or the current year. It is noteworthy that the annual budget of the United Nations is approximately equivalent to one thousandth of the amount that the world spends every year on arms: the cost of 15 F/A-18 fighter aircraft would cover that budget.

8. In conclusion, the International Federation Terre des Hommes calls upon the Commission on Human Rights to strongly recommend that every State Member of the United Nations should honour its financial obligations and pay off any arrears that it might have as soon as possible while, at the same time, pursuing the endeavours that are being made to increase the financial resources of the United Nations. These investments would inevitably bear fruit of inestimable value, in the short or the long term, for the peoples of all the Member States.

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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

Written statement submitted by the International Educational Development Inc, a non-governmental organization on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[26 February 1992]

GE.92-11193/8832a

1. Article 24 of the Universal Declaration of Human Rights provides: "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay." This right is reinforced in article 7 (d) of the International Covenant on Economic, Social and Cultural Rights.

2. International Educational Development believes that this right is an essential feature to protect the rights of workers, and is inextricably linked to, inter alia, the right to life, the right to the highest obtainable standard of health and all trade union rights.

3. The situation of workers in Japan presents us with a clear illustration of the result of systemwide violations of this right: the phenomenon of death by overwork. The predominance of this phenomenon in Japan has resulted in its being known worldwide by the Japanese word karoshi.

4. International Educational Development reported on death from overwork or karoshi in Japan at the 1991 session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. We testified that karoshi has increased dramatically since 1980 in Japan, and now results in nearly 10,000 worker deaths per year.

5. International Educational Development regrets that to date, the Japanese Government appears unconcerned by karoshi. In fact, the Ministry of Labour in Japan apparently denies its existence. Nonetheless, survivors (mostly widows and children) of karoshi victims were heartened by our statements at the Sub-Commission, and a karoshi hotline, established in 1988, has received hundreds of calls since.

6. To compound the tragedy for the families of karoshi victims, the current compensation scheme in Japan for work-related injuries has served to deny more than 90 per cent of karoshi claims. The bereaved families are denied access to employer records, and in most cases, are not allowed to present evidence on the hours of overtime worked.

7. In October 1991, the Japanese Ministry of Labour reported that in 1990, 567 karoshi claims were filed for workers compensation, but only 33 claims succeeded. And in November 1991, the Supreme Court upheld the dismissal of Mr. Tanaka by Hitachi Corporation for a single refusal to work overtime.

8. Japanese workers worked 130 hours frequently uncompensated overtime in 1970. By 1990, the average worker worked 185 overtime hours. During the same period, the number of annual paid leave days declined from an already low 8.8 days to 7.9 days. In 1987, Japanese workers worked 200 hours longer than workers in the United States of America and nearly 500 hours longer than those in France and Germany.

9. Most overtime worked is uncompensated. For example, one Fuji Bank employee claims that male workers worked 3,000 hours per year of which 700 were unpaid overtime work. The situation is common in banks - in 1991 the Tokyo Labour Standards Bureau inspected 80 bank offices including the head offices of Daiichkangoyo Bank, Fuji Bank, Mitsubishi Bank, Kyowa Bank and the Bank of Tokyo and found that in 28 of the 80 offices, illegal overtime work without pay occurred.

10. In addition to uncompensated overtime work, many workers in Japan receive inadequate overtime pay. While most developed countries require payment of an additional 50 per cent of the regular wage for overtime work, the standard rate in Japan is 25 per cent. Workers in the auto industry work an average of 2,210 hours, including 291 overtime hours - frequently illegally and without pay.

11. Needless to say, excessive overtime work can lead to serious industrial illnesses and, increasingly in Japan, to early death. Examples in the auto industry: (a) A Toyota design engineer, died at 37 of a brain haemmorrhage, after having worked 3,000 hours a year; (b) Mr. Sokiguchi of Honda Canada, died of a heart attack at age 43, also after a number of years of overtime.

12. International Educational Development thinks that the Government of Japan should take effective measures to curb illegal overtime and to ensure that Japanese citizens enjoy their full human rights, including their right to rest and leisure time. To date, however, Japan has a poor record with workers' rights. Japan has refused to ratify International Labour Organisation conventions having provisions to limit over work. Japan also is alleged to have refused to ratify ILO Convention 1 (1919) as it was "underdeveloped".

13. International Educational Development urges the international community to pay closer attention to the phenomenon of karoshi, which although particularly grave in Japan, exists elsewhere. The Commission should request the Committee on Economic, Social and Cultural Rights to pay attention to karoshi in Japan and in other countries. The Commission should request all Governments to ratify the relevant ILO conventions. Finally, the Commission should call on Governments such as Japan to halt this human rights violation and to set up reasonable workers compensation measures to remedy existing violations. Japan should also ensure adequate annual paid vacations for its workers.

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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by International Educational Development Inc., a non-governmental organization on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[10 February 1992]

I. THE UNITED STATES OF AMERICA AND HAITIAN ASYLUM SEEKERS

1. A situation requiring urgent action by the Commission on Human Rights involves the seizure or capture on the high seas of vessels carrying asylum-seekers from Haiti by the United States Government. Regardless by what sanitized name such action may be called - "interdiction" is the term used by the United States - high seas capture is piracy. Piracy is an international crime and its prohibition was one of the earliest recognized jus cogens norms. The United States should be most strongly condemned for this piracy and every effort should be made to stop its occurrence.

GE.92-11296/8852a

2. The United States compounds its gross violation of human rights against Haitian people fleeing the repressive, illegal regime in Haiti by holding them in detention and then forcibly returning to Haiti those it apprehends. Blithely maintaining that Haitians really seek economic betterment rather than safety from the violent regime, the United States even fail to allow the majority of the Haitians to make their claims under international and domestic refugee norms. Rather, the United States temporarily detains them in Cuba, and then summarily sends them home. It provides the Haitian regime with names and particulars of the returnees. A number of the returnees have once again fled Haiti for their lives, only to be caught again by the United States.

3. The Commission on Human Rights should, by resolution, condemn these violations of the United States regarding Haitian refugees, and should investigate whether they are, as the evidence to date strongly indicates, racially motivated. The Commission should also recognize the laudable efforts made by the Organization of American States to seek an acceptable resolution to this crisis of democracy and human rights and to urge all countries, especially the United States, to fully cooperate with it.

II. DETENTION IN MYANMAR (BURMA)

4. International Educational Development is proud to represent Noble Peace Prize winner Aung San Suu Kyi before the Working Group on Detention. Her case was submitted to that body on 10 December 1991. However, as Aung San Suu Kyi would be the first to point out, many other Burmese are currently illegally detained by the current regime which remains in power even though soundly defeated in elections held in May 1990. The illegitimate regime refuses to allow international investigation of their physical and legal condition. Quite frankly, there are so many cases of alleged arbitrary detention and severe mistreatment that they alone would inundate the Working Group on Detention and the Special Rapporteur on Torture. The United Nations must take decisive and public action regarding Burma.

III. JAPAN'S DAIYO-KANGOKU (POLICE CELL) DETENTION AND VIOLATION OF RIGHTS TO COUNSEL

5. International Educational Development again draws to the attention of the Commission on Human Rights the situation of gross violations of human rights inherent in the Japanese criminal justice system, in particular because of the station house (daiyo-kangoku) detention and almost non-existent right to counsel. As we have reported before, Japanese criminal suspects are held for up to 23 days (or until indictment) under law and up to several hundred days in practice in police station cells, during which time most are denied counsel. Indigent suspects do not have a right to counsel until after indictment, and even if counsel can be paid for, access of counsel is often so severely limited as to be meaningless. Details of these practices are set out in our report, prepared with the International Federation on Human Rights, which we circulated in past years.

6. We menion again the illustrative cases of Mr. Yaron Sachs, an Israeli citizen and Mr. Iwao Hakamada. We were pleased to present a dossier amicus curae in Mr. Sachs' case at the Tokyo High Court, and we have closely

followed his case and the ongoing violations of his rights. A prominent Japanese human rights group headed by Ms. Chisako Tesuka, herself freed following false accusations, arrest and severe mistreatment, has supported Mr. Sachs in his efforts to obtain justice. Mr. Hakamada's case has been amply documented by us at the Sub-Commission on Prevention of Discrimination and Protection of Minorities and we have carefully prepared reports of his situation thanks to the Association to Save Innocent Prisoner, Former Boxer Iwao Hakamada.

7. We now bring you two additional cases which illustrate the system-wide problems: Mr. Donald E. Wilson and Mr. Edwin Emeka Nwachukwa, both American citizens of African background. Mr. Donald Wilson was so severely beaten in daiyo-kangoku during interrogations with no counsel that he suffers head and neck pains, blurred vision, numbness and chills. An X-ray indicates a herniated neck vertebrae. Mr. Wilson has been visited by a journalist for the Los Angeles Times and Americans from a church group who verified his inhumane treatment. Members of the United States Congress have sought to no avail to seek assistance for him. Mr. Edwin Emeka Nwachukwa's case was first brought to our attention by a medical doctor from Germany who presented indications of abnormal treatment and racial discrimination.

8. Many Japanese lawyers such as Ms. Futaba Igarashi has fought valiantly for years to abolish the daiyo-kangoku system. We are exceptionally pleased that our 1988 report is now joined by two excellent reports of the Japanese Federation of Bar Associations: "A Report on the Application and Practice in Japan of the International Covenant on Civil and Political Rights" (22 November 1991) which focuses especially on these criminal justice system violations, and "Realities of Police Detention in Japan" (21 November 1991) which carefully documents three representative cases.

9. International Educational Development sincerely hopes that the Commission on Human Rights acts in a meaningful way to these serious system-wide violations of criminal justice rights. Pressure should be brought on Japan to introduce long-overdue reforms. We also urge the Governments of the United States, Israel and any other country with nationals in Japanese jails to come to their aid.

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Forty-eighth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by International Educational Development Inc., a non-governmental organization on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 March 1992]

1. International Educational Development wishes to draw to the attention of the Commission the loss of life and serious destruction of property taking place in Croatian areas due to the ongoing conflict between the Federal Army and Croatian defence forces.

2. Many villages in Croatia do not exist anymore; they have been completely destroyed. Vukova once with a population of about 45,000 is estimated to be 98 per cent destroyed and uninhabitable. Numbers of inhabitants, including some of the 25,000 Serbians who lived there, were killed. Captured villagers have been held at special camps, where many have been subjected to torture. The same scenario has taken place in many other Croatian areas.

3. At the present time, there are reliable estimates of 720,000 internally displaced persons or refugees from the Croatian areas. Reliable sources also allege 2,900 missing persons, 5,600 captured Croatian combatants and civilians, and more than 16,000 Croatian wounded. Nearly 500 historical and cultural monuments have been damaged or destroyed.

4. The Yugoslavian Army holds Croatian militants and civilians in a number of prisons or camps. Additionally, a number of Croatian militants and civilians are held by Serbian paramilitary forces in camps at Beli Manastir, Jagodnjak, Borovo Selo, Berak, Ovcara, Bijele Vode, Gradac, Glina, Vojnic, Plaski, T. Korenica, Udbina, Gracac, Skabrnja and Benkovac.

5. International Educational Development sincerely hopes that the United Nations peace-keeping force will be able to fulfil its mission. We recognize it will be no easy task, in part owing to a situation of great historical and legal complexity. We believe that neither the majority of the Serbian people nor the majority of the Croatian people harbour deep-seated racial and ethnic hatred, in spite of the present military hostilities. Rather, we understand the situation as primarily a political one that hopefully will be resolved within the context of full compliance with international human rights standards.

6. In the meantime, the international community should respond to the situation with the maximum of humanitarian assistance, especially to the numerous refugees and displaced persons. The international community should also insist that international humanitarian and human rights organizations be given full access to carry out their various assistance programmes for victims of the conflicts.

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COMMISSION ON HUMAN RIGHTS
Forty-eighth session
Agenda item 17

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-THIRD SESSION

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

GE. 92-11770 [2 March 1992]

The International Fellowship of Reconciliation (IFOR) wishes to address a particularly serious problem concerning violations of basic human rights with regard to the Jewish minority of Syria, now numbering about 4,000 persons; as well as a related matter of the continued detention for over four years, without a fair trial, of two members of this minority: Eli and Selim Swed, both pharmacists.

The "right to leave" one's country is enshrined in article 13 of the Universal Declaration of Human Rights and in article 12/2 of the International Covenant on Civil and Political Rights, which has been the subject of study and recommendation for several years by the Commission on Human Rights and is currently being examined by the Sub-Commission in connection with a Draft Declaration, concerning which the Secretary-General transmitted the Report of its Working Group to the Commission in note E/CN.4/1992/47.

The situation of the Jewish minority of Syria is an old human rights issue, constantly raised since the foundation of the United Nations. In the introduction to his 1969 annual report on the Organisation, the UN Secretary-General U Thant referred to this minority (and to other Jewish minorities in certain Arab countries, most of whom have since been allowed to emigrate) in these terms: "... these minorities would be better off elsewhere and the countries in which they now live would also be better off, given the prevailing circumstances, if the departure of those who would wish to leave could be sanctioned and arranged... I hope very much, therefore, that it may soon be possible to find sensible ways of solving this largely humanitarian problem. The approach to the situation can be based only on humanitarian considerations..." (Official Records of the General Assembly, 24th session, supplement N°1A (A/7601) Add. 1, para 74.)

In a letter dated 12 December 1978, the President of the French Senate Mr Alain Poher - who still holds that distinguished post - informed the UN Secretary-General Mr Kurt Waldheim: "By its treatment of the Jews in his territory, Syria is constantly and methodically violating the International Covenant on Civil and Political Rights of 1966, to which it acceded on 21 April 1969. The 4,500 Jews of Syria residing at Damascus, Kamishli and Aleppo are treated like hostages and cannot leave the country even to receive medical care."

Over the next years, in response to appeals by some world leaders, the Syrian Government eased some of the rigid discriminatory restrictions applied to the Jews. For example, as a result of the April 1977 meeting in Geneva between Presidents Jimmy Carter and Hafez al-Assad, fourteen Jewish girls were authorised to leave Syria for New York, where there is a sizeable Syrian Jewish community.

Since then, some more Jewish women were allowed to emigrate after repeated requests from foreign personalities, whose status was sufficiently important to justify further "humanitarian gestures" from the Syrian authorities. There is a demographic disequilibrium within the Jewish community of Syria, resulting in a situation where about 200 Jewish women of childbearing age, without husbands, still have little or no chance of marrying a member of their own faith and therefore seek to emigrate to a Jewish community elsewhere.

This hostage-like condition of the Jews in Syria was well described by a British historian in Report N° 76 of the London-based Minority Rights Group, dated November 1987, under the title: "The Jews of Africa and Asia". Regarding their situation in Syria, he concluded: "The Jews are not the only oppressed group in Syria. In many respects, however, the situation of the Jews is even worse than that of other groups such as the Kurds or Armenians." The International Federation of Human Rights also submitted a detailed file on this same subject, dated 21 June 1988.

In an Act of the United States Congress (H.R. 300), dated 15 December 1987, under Sec. 620: PLIGHT OF JEWS IN ARAB COUNTRIES, clause (b), being a STATEMENT OF POLICY, reads as follows: "It is the sense of the Congress that the United States Government should: (2) specifically urge the Government of Syria to halt its intolerable policy of holding its Jewish citizenry hostage through harassment and intimidation and allow them to emigrate."

Two years later, assurances were given by the Government of the Syrian Arab Republic to the United States Government, contained in a State Department document of 8 November 1989 (reported in the press), stating that Syria had agreed to: "*consider positively applications for legal emigration for those with relatives, who have already emigrated, and to allow single Jewish women to leave Syria.*"

The remnant of this ancient Jewish community (ten per cent of the 1948 estimation of 40,000 persons) is still a hostage minority, most of whom - especially the unmarried women - would like to leave Syria but are not allowed to do so, except in certain special cases where at least one close relative remains to guarantee the "good conduct" and the return of the exceptionally authorized absentee.

At the forty-second session of the Sub-Commission, Mrs Claire Palley, the member from the United Kingdom, made the following Statement on 15 August 1990 (E/CN.4/Sub.2/1990/SR.11), which she reiterated, word for word in a subsequent "point of order", in reply to the observer of the Syrian Arab Republic (Mr Moukhless Pharaon): "Despite protestations I have heard over the last three years by the representative of Syria that Syria's Government does not practise discrimination, especially in relation to persons of the Jewish faith, this Sub-Commission should not be silenced until satisfied that this is true, not by mere words and assurances, but by the actual emigration of the women who have become victims. I hope the representative of Syria will tell us precisely when, and the modalities in terms of which, all such women will be permitted to emigrate within the next six months." (Verbatim UN tape-recorded transcript.)

Since this formal request was made, several Jewish girls were allowed to emigrate, but the "right to leave" is still a difficult obstacle for these women, many of whom wish to leave the country. The same restrictive rules against emigration apply to the rest of this "hostage" minority, each of whom is designated in Syrian identity cards with the word, in blue letters, "Mossawi" - meaning in Arabic: of the Jewish, or Mosaic, religion. Other examples: Jews are not permitted to participate or vote in elections, nor work in the public service. Phone calls to Jews are tapped and their letters are subject to censorship. Members of the Secret Service (*Moukhabarat*) frequently "visit" synagogues during religious service and are known to take exception to the word "Israel" in the traditional prayer books.

* * *

With regard to the related matter of detention without a fair trial - as it concerns the Jewish minority in Syria - Amnesty International published two Urgent Action Appeals, dated 14 July and 1 December 1988 on ten members of the Syrian Jewish community, all of whom were arrested without warrants, denied access to legal counsel and several allegedly tortured. More recently, in its October 1991 Newsletter, Amnesty International reported that: "At least 23 members of Syria's Jewish community have been arrested since 1987, including women and secondary school students. Most of them were detained without trial, ostensibly after having tried to leave Syria without exit permits..." Two of them are still in 'Adra Civil Prison: they are 52 year-old Salim Swed, married with three children, arrested in his pharmacy in December 1987; and his 31 year-old brother, Eli, also a pharmacist, arrested at the same period and held in untried detention for over three years. On 21 May 1991 they were each given a 6½ year sentence, reportedly on charges of treason or espionage, after a "trial" held *in camera* on 5 March 1991 which lasted a few minutes. According to Amnesty International: "Neither the defendants nor their lawyers were allowed to speak. AI has received no response from the Syrian authorities to its request for details of the trial proceedings and of any right of appeal to a higher tribunal."

The International Fellowship of Reconciliation requests the Commission on Human Rights and the Government of the Syrian Arab Republic to find ways and means for ending this abnormal situation by granting the effective enjoyment of human rights and fundamental freedoms to the Jewish minority in Syria. It suggests that this should be considered as an urgent matter, which could best be approached on three levels:

1) On "humanitarian considerations", as recommended by former Secretary-General U Thant twenty-two years ago, in the introduction to his 1969 annual report, quoted above;

2) On the basis of the "right to leave" one's country, which should be applied as a collective measure for this "hostage minority" of about 4,000 persons, scarcely a family of which has not been divided or separated. Each individual would retain the possibility to remain in Syria, or to return to that country - especially the single women.

3) The two brothers Elie and Salim Swed - the last of the two prisoners out of at least 23 members of the Syrian Jewish community, arrested in 1987 as described above - who have been in detention without trial for 3½ years and have been sentenced to a 6½ year prison sentence, in a trial which contradicts all international norms to which Syria is a party, should be rapidly freed under the auspices of the International Committee of the Red Cross (ICRC) and allowed to leave Syria with their families.

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